REMARKS

Claims 16-20 are currently pending. Claim 16 has been amended herein. The amendment to Claim 16 adds no new matter and is fully supported in the specification. Reconsideration and allowance of these Claims are respectfully requested.

112 Rejections

The Examiner rejected Claim 16 under 35 U.S.C 112, first paragraph as failing to comply with the enablement requirement. The Applicants respectfully disagree with this rejection which is based on the Examiners objection to the use in Claim 20 of the term "metrics". As it regards the use of the term "metrics" in Claim 20, this term is employed to convey its plain, commonly understood meaning, which is "a standard of measurement." Consequently, the withdrawal of the 112 rejection made on this basis is respectfully requested.

102 Rejection

Claims 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over by Raab et al. (U.S. Patent No. 6,047,321) in view of Desai et al. (U.S. Patent No. 5,781,703). Applicants have reviewed the recited references and respectfully submit that the present invention as is recited in Claim 16 is neither anticipated nor rendered obvious by the Raab et al. in view of Desai et al.

The Examiner is respectfully directed to independent Claim 16 which recites that an embodiment of the present invention is directed to:

> ...deploying dRMON agents within ESs to be monitored said agents implementing RMON functional groups but only capturing and analyzing packets that their native ES sends or receives; on a regular, periodic basis having the dRMON agents forward statistics and/or captured packets

> to a dRMON proxy or collector, existing somewhere on the WAN/LAN…

Raab et al. does not anticipate nor render obvious a method for distributed remote network monitoring comprising, "deploying dRMON agents within ESs to be monitored said agents implementing RMON functional groups but only capturing and analyzing packets that their native ES sends or receives." Raab et al. only discloses a method and apparatus for monitoring a dedicated communications medium in a switched data network. As such, Raab et al. is only concerned with the monitoring of the medium between network connected devices and not the network connected devices themselves. In fact, Raab et al. teaches at column 4, lines 33-37 that his disclosed system monitors the traffic patterns "between workstations." Nowhere, does the Raab et al. reference show or suggest monitoring data in end systems (ESs) as is recited in applicants Claim 16. Consequently, Raab et al. does not anticipate or render obvious the applicants invention as is recited in the Claims.

Desai et al. does not overcome the shortcomings of Raab et al. noted above. Even if the Examiners allegations regarding the teachings of the Desai reference are correct (that Desai teaches deploying dRMON agents within ESs; see Office Action page 3), the combination of Raab et al. and Desai et al. would not render the current invention obvious within the meaning of 35 U.S.C. 103 as Raab et al. clearly teaches (as is indicated above) that the disclosed system is concerned with monitoring the medium that connects network devices. As such, Raab et al. sharply teaches away from employing components of a system (such as that disclosed by Desai etal.) that feature attributes incompatible with this concept. Moreover, it has been held that the teachings of a reference are not sufficient to render an invention obvious where the "suggested combination of references would require a substantial reconstruction

and redesign of the elements shown in the primary reference as well as a change in the basic principle under which the construction was designed to operate." *In re Ratti*, 270 F.2d. 810, 123 USPQ 349 (CCPA). Consequently, Desai et al. and Raab et al., either alone or in combination, do not anticipate or render obvious the Applicants' invention as is set forth in Claims 16.

Therefore, Applicants respectfully submit that Raab et al. and Desai et al. either alone or in combination does not anticipate or render obvious the present Claimed invention as is recited in independent Claim 16 and that independent Claim 16 overcomes the Examiners basis for rejection under 35 U.S.C. 103(a). Accordingly, Applicants submit that Claim 16 is in condition for allowance.

Claims 17 and 18 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Raab et al. (U.S. Patent No. 6,047,321) in view of Desai et al. (U.S. Patent No. 5,781,703) in further view of Dobbins et al. (U.S. Patent 5,790,546). Dobbins et al. does not overcome the shortcomings of Raab et al. and Desai et al. noted above. Nowhere, does the Dobbins et al. reference show or suggest monitoring data in end systems (ESs) as is recited in applicants Claim 16. Consequently, Raab et al. in view of Desai et al. in further view of Dobbins et al. does not anticipate or render obvious the applicants invention as is recited in the Claims.

Claim 19 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Raab et al. (U.S. Patent No. 6,047,321) in view of Desai et al. (U.S. Patent No. 5,781,703) in further view of Umetsu (U.S. Patent 5,751,963). Umetsu does not overcome the shortcomings of Raab et al. and Desai et al. noted above. Nowhere, does the Umetsu reference show or suggest

monitoring data in end systems (ESs) as is recited in applicants Claim 16. Consequently, Raab et al. in view of Desai et al. in further view of Umetsu does not anticipate or render obvious the applicants invention as is recited in the Claims.

Claims 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Raab et al. (U.S. Patent No. 6,047,321) in view of Desai et al. (U.S. Patent No. 5,781,703) in further view of Nugent et al. (U.S. Patent 6,076,131) in further in view of Engel et al. (U.S. Patent No. 6,115,393). Nugent et al. further in view of Engel et al. does not overcome the shortcomings of Raab et al. and Desai et al. noted above. Nowhere, does either the Nugent et al. or Engel et al. references show or suggest monitoring data in end systems (ESs) as is recited in applicants Claim 16. Consequently, Raab et al. in view of Desai et al. in view of Nugent et al. and further in view of Engel et al. does not anticipate or render obvious the applicants invention as is recited in the Claims.

Conclusion

In light of the above-listed amendments and remarks, Applicants respectfully request allowance of the remaining Claims.

The Examiner is urged to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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Dated: 2/20, 2004

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